

UNITED STATES DISTRICT COURT

for the
Middle District of North Carolina

NORTH CAROLINA DEMOCRATIC PARTY; et al.

Plaintiff

v.

PHILLIP E. BERGER; et al.

Defendant

Civil Action No. 1:17-cv-1113-NCT-JEP

WAIVER OF THE SERVICE OF SUMMONS

To: John R. Wallace and Edwin M. Speas, Jr.

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

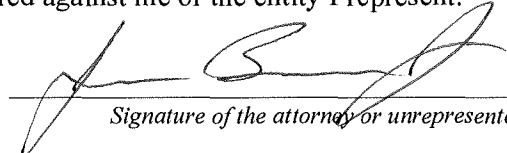
I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 12/14/2017, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 12/15/2017

The State Board of Elections and Director Strach

Printed name of party waiving service of summons


Signature of the attorney or unrepresented party

James Bernier, Jr.

Printed name

Special Deputy Attorney General
114 W. Edenton Street
Raleigh, NC 27603

Address

JBernier@ncdoj.gov

E-mail address

(919) 716-6932

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

I further certify that I have this day served a copy of the foregoing via email and by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following address which is the last address known to me:

Alexander McC. Peters
Chief Deputy Attorney General
Office of the Attorney General
North Carolina Department of Justice
114 W. Edenton St.
Raleigh, NC 27601
apeters@ncdoj.gov

Josh Lawson, General Counsel
430 N. Salisbury St., Suite 3128
Raleigh, NC 27603-5918
joshua.lawson@ncsbe.gov

This the 19th day of December, 2017.

POYNER SPRUILL LLP

By: /s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.
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ATTORNEYS FOR PLAINTIFFS